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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,873	12/09/2003	John W. Matthews	SF-1	6841
25917	7590	04/18/2006	EXAMINER	
LANGLOTZ PATENT WORKS, INC.			HAN, JASON	
PO BOX 759			ART UNIT	
GENOA, NV 89411			PAPER NUMBER	
			2875	

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/732,873	Applicant(s) MATTHEWS ET AL.	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10 is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 15, 2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed March 7, 2006 have been fully considered but they are not persuasive.

3. Applicant's argument, "Ko has only the conventional single electrical path between the ends: a conductive housing" [Page 6], has been considered but is not persuasive. It is clear and apparent that the three electrical paths defined in the previous Office Action are inherently disposed between the first and second ends of the housing, and are independent due to the very nature that the paths are not connected to one another. As broadly interpreted [MPEP 2111], the prior art of Ko remains commensurate to the scope of the claim as stated by the Applicant. It should further be noted that if the switches are connected together, then they would be dependent upon one another, whereas each of the electrical paths of the switches are independently connected to the CPU (31), as clearly portrayed in Figure 4.

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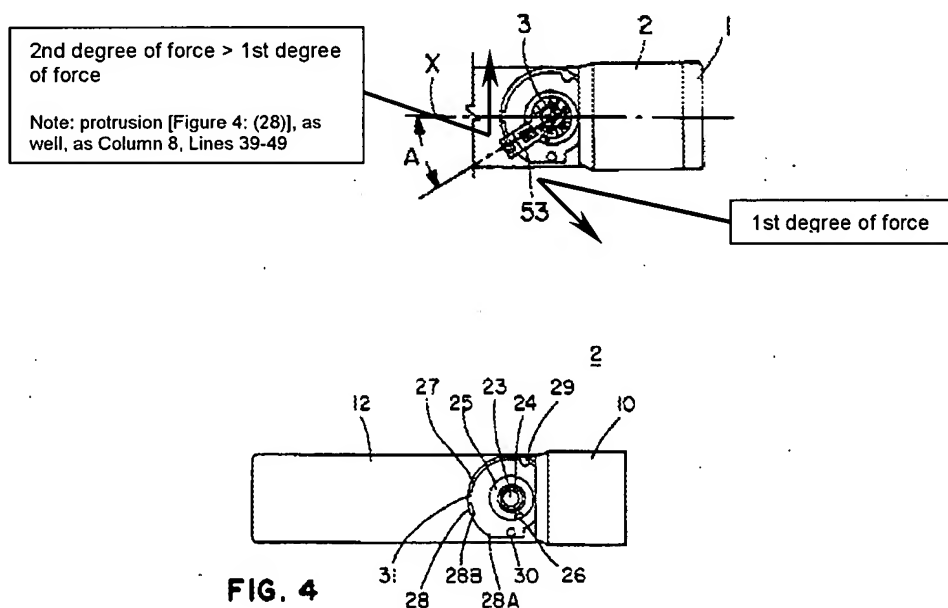
4. In addition, the Examiner maintains from Figure 4 of Ko et al. (U.S. Patent 6307328) that more than one independent electrical path exists. To recapitulate, the claim language does not provide sufficient context to read over the prior art of record and it remains clear that Figure 4 does indeed teach three independent paths between the first and second ends of the housing (which does not necessarily mean that said paths "extend from one end to the other" – Page 7).

5. Applicant's argument, "the Ko switch 14, is an input that merely invokes a flashing signal mode in an already illuminated lamp, and does not generate a response of power delivery" [Page 7], Ko teaches, "The trigger switch 14 is connected to the input end of the microprocessor 31... By means of operating the selector switch 13 or the trigger switch 14, the microprocessor 31 is driven to control the bandwidth of the MOS field effect transistor 35, so as to regulate the intensity of light of the lamp bulb 21 steplessly, or to flash the lamp bulb" [Column 2, Lines 24-25, 30-34]. The mere fact that the switch drives the microprocessor to regulate the intensity is a clear teaching of a response to the input to deliver power from the power storage element to the lamp. To recapitulate, the controller of Ko is operable in responding to the input to deliver power via affecting the power (flashing signal) from the storage element to the lamp.

6. In response to Applicant's argument concerning Claim 11 that the rheostat is not an electronic controller, the Examiner disagrees, whereby a broad interpretation of an electronic controller would be met by a rheostat due to the nature that it does electronically controls resistance.

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7. In response to Applicant's argument, "The rejection of claim 11 is in error for the additional reason that the cited reference does not disclose operability for momentary versus sustained illumination, based on a degree of force. The action does not provide evidence that McDermott's momentary illumination function is invoked with a first degree of force, nor that the sustained illumination function is invoked with a greater force" [Page 8], it is inherent, as shown below, that a light first degree of force may be applied to the switch while in the momentary on position to barely dim the light on (i.e., barely towards "28A"), while requiring a greater degree of force when applying a second degree of force to push the switch all the way to the max sustained illumination at position "29".



8. In response to Applicant's argument concerning Claim 14, "The error is in the action's assertion that the Nilssen controller is operable to provide dimmed lamp illumination in response to an application of force" [Page 9], has been considered but is

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not considered persuasive. At present, the prior art of Nilssen (U.S. Patent 5498934) remains commensurate to the scope of the claim as broadly interpreted by the Examiner, whereby Nilssen teaches the controller being operable to provide illumination of the lamp at the dimmed output level in response to an application of a first degree of force on the switch [Figure 3: force applied to move the switch from the 'OFF' to 'ON' position], as well as providing illumination of the lamp at a maximum output level [Figure 3: 'MAX'] in response to application of a greater second degree of force on the switch.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. With regards to Independent Claim 17, the Applicant recites "operating the first control to establish a dimmed level at an output less than the maximum level", and then actuating a separate switch at different degrees of force. However, it remains unclear how "in response to cessation of force ceasing the illumination of the light source" when the former recitation clearly established a dimmed level via the first control. Elucidation is required, whereby an appropriate prior art search cannot be conducted.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

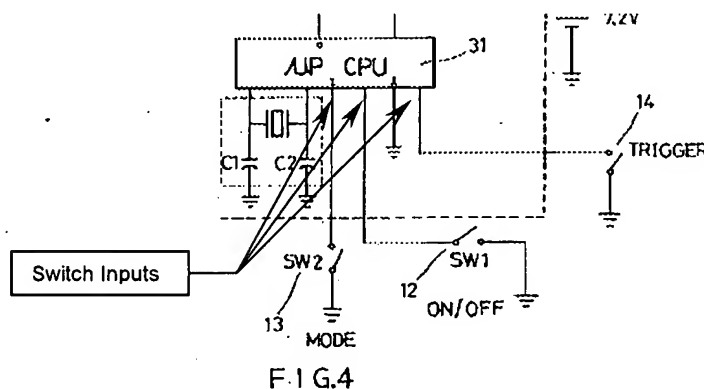
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Ko et al.

(U.S. Patent 6307328).

12. With regards to Claim 1, Ko discloses a flashlight including:

- A lamp [Figures 3-4: (21)];
- A power storage element [Figures 3-4: (11)];
- A switch [Figures 3-4: (14) or Figures 3-4: (12-13)];
- An electronic controller [Figures 3-4: (3)];
- The controller having a switch input connected to the switch;



- The controller being operable in response to the input to deliver power from the power storage element to the lamp [Column 2, Lines 30-34, 41-46; Column 2 Line 63-Column 3, Line 1]; and

13. With regards to Claim 2, Ko discloses the switch being operably connected directly to the switch input [Figure 4 – note drawing on top of page].
14. With regards to Claim 3, Ko discloses the controller, lamp, and power storage element being connected to each other via a power circuit bypassing the switch, such that current for illuminating the lamp does not pass through the switch [Figure 4 – note the control circuit (3) permits bypassing of all three switches (12-14)].
15. Claims 1 and 4-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Chapman (U.S. Publication 2004/0190286).
16. With regards to Claim 1, Chapman discloses a flashlight including:
- A lamp [Figures 1, 21, 40: (306)];
  - A power storage element [Figures 1, 21, 40: (90)];
  - A switch [Figures 1, 21, 40: (382, 410)];



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- An electronic controller [Figures 1, 21, 40: (430)];
- The controller having a switch input connected to the switch [Figure 40: connected to (430) on PCB (402)];
- The controller being operable in response to the input to deliver power from the power storage element to the lamp [Page 6, Paragraph 91]; and
- The flashlight having an elongated housing [Figure 21: (312)] having the lamp [Figure 21: (306)] at a first end and the switch [Figure 21: (382)] at an opposed second end, and including at least two independent electrical paths between the first and second ends [Figure 40].

17. With regards to Claim 4, Chapman discloses the switch being operable within a range of conditions and is operable to transmit an electrical state corresponding to a condition to the controller [Page 6, Paragraph 91].

18. With regards to Claim 5, Chapman discloses the switch having a plurality of different electrical states in addition to an off state, wherein the electrical state is based on a degree of externally applied force [Page 6, Paragraphs 91, 93].

19. With regards to Claim 6, Chapman discloses the switch including a plurality of separate contact elements each connected to a respective electrical component, and all operable to contact a common contact sequentially in response to movement of a switch actuator, such that the number of separate contacts contacting the common contact is based on the degree of applied external force [Figure 36; Page 6, Paragraphs 91, 93].

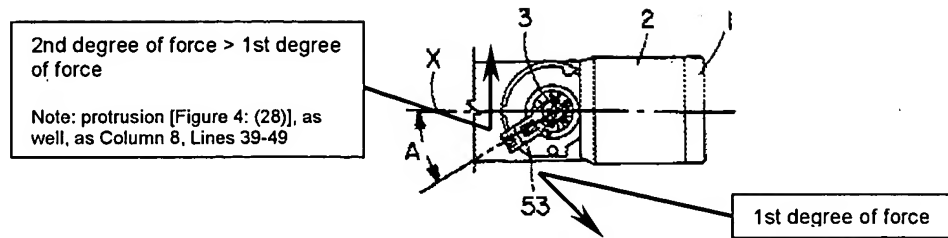
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20. With regards to Claim 7, Chapman discloses the switch including at least a resistor, and the electrical states including a plurality of different resistance values [Page 6, Paragraph 91].

21. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by McDermott (U.S. Patent 6024471).

22. With regards to Claim 11, McDermott discloses a flashlight including:

- A lamp [Figures 3, 16: (44)];
- A power storage element [Figures 3, 16: (PS)];
- A switch [Figures 3, 18: (3, 53, 59, 60)];
- An electronic controller [Figures 14, 16: (48, 51); Column 1, Lines 52-58] operably connected to each of the power storage element, the lamp, and the switch;
- The controller operable to provide momentary illumination of the lamp during an application of a first degree of force [Figures 24, 26; Column 10, Lines 38-45], and to cease illumination of the lamp in response to cessation of the force [Figure 26; Column 11, Lines 4-9]; and
- The controller operable to provide sustained illumination of the lamp in response to application of a greater second degree of force, and to maintain illumination of the lamp in response to cessation of the force [Figures 20-23; Column 8, Lines 39-49; Column 9, Lines 20-24].



23. With regards to Claim 12, McDermott discloses the controller being operable while providing sustained illumination after cessation of the force to cease illumination in response to a second application of force [Column 9, Lines 24-27].

24. With regards to Claim 13, McDermott discloses the switch including a plurality of contacts [Figure 19], at least one of which having an associated resistor connected to present a net resistance to the controller on the degree of force applied to the switch [Column 7, Lines 13-15].

25. Claims 14-15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Nilssen (U.S. Patent 5498934).

26. With regards to Claim 14, Nilssen discloses a flashlight including:

- A lamp [Figure 1: (LB)] with a variable light output level up to a maximum output level [Figure 3: "MAX"];
- A switch [Figure 3: (SL)] operable through a range of conditions ranging between a released position and a fully actuated position;
- A power storage element [Figure 1: (B)];
- A dimmer facility [Figure 1; (SW)] operable to select a dimmed output level below the maximum output level [Column 1, Lines 28-45];
- An electronic controller [Figure 1: (FCM)] operably connected to each of the lamp, the switch, the power storage element, and the dimmer facility;

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- The controller operable to provide illumination of the lamp at the dimmed output level in response to an application of a first degree of force on the switch [Figure 3; Column 2, Lines 56-60; Column 3, Lines 37-67]; and
- The controller operable to provide illumination of the lamp at the maximum output level in response to application of a greater second degree of force on the switch [Figure 3; Column 2, Lines 56-60; Column 3, Lines 37-67].

27. With regards to Claim 15, Nilssen discloses in response to application of the first degree of force for less than a selected duration, sustaining the illumination of the lamp at the dimmed output level after cessation of the force [Column 5, Lines 20-23].

28. With regards to Claim 19, Nilssen discloses the controller being operable to maintain the lamp in an off state in the absence of an application of force [Figure 3: "OFF"].

***Allowable Subject Matter***

29. Claims 8-10 are allowed.

30. The following is an examiner's statement of reasons for allowance:

With regards to Independent Claim 8, the Applicant has sufficiently amended and defined a flashlight including a switch electrically connected to a controller, whereby the switch is operable within a range of conditions, in addition to an off state, such that it transmits an electrical state corresponding to a condition to the controller, wherein the electrical state is based on a degree of externally applied force, and the switch is biased to the off state. The prior art of record fails to teach or suggest the combination of structural elements claimed herein, specifically the switch transmitting an electrical state

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based on a degree of externally applied force to the controller and wherein the switch is biased to an off state, and all subsequent dependent claims are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

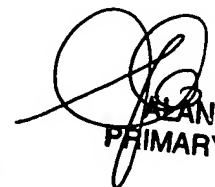
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason M Han  
Examiner  
Art Unit 2875

  
ALAN CARIASO  
PRIMARY EXAMINER

JMH (4/13/2006)